

A critique of the instrumentalist view of international law essay sample

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Let's say that your local homeowner's association put in a new rule mandating that everyone in the community use the same color of paint for their fences. You've long enjoyed that dark brown on your fence - almost black, in fact. However, the color that the association chose is more of a rich cordovan. As more and more of your neighbors comply with the new rules, you start to get some notices from the association that you are no longer in compliance. To be fair, you didn't vote for the uniform color, and you don't think that you should have to change your fence's color. After all, the fence itself is still in fine condition, and it will likely last for several more years without any need for repairs unless you have a major windstorm come through. Should you have to follow the dictates of your homeowner's association, even though the fence follows the other regulations of your community as far as height and general condition go? If you decide to rebel, the homeowner's association has the right to fine you and, if you don't pay the fines and (depending on the covenants of your association) don't remedy the problem, you could have a lien filed against your property and ultimately lose it to foreclosure. So even if you think that you have the moral high ground in this case, you can still end up losing your property, if things progress far enough.

The instrumentalist view of this situation would likely object to such unnecessary meddling by the homeowner's association. You don't see an ethical, moral or even an aesthetic need for a new coat of paint for your fence, and so you decide not to go along with it. Unfortunately, the homeowner's association has contracts in place that can force you to make those improvements - or end up risking the loss of your home. Eventually,

you are much more likely to grumble all the way to the home improvement store before you buy the right paint, rent a power sprayer and come home to bring your fence into compliance.

But what about international law? The covenants of a homeowner's association have a lot more to do with your everyday life than international agreements have to do with the day-to-day activities of countries - unless, of course, those countries are running afoul of international law. It's fairly clear, for example, that Russia takes an instrumentalist view of the importance of following international law. Even though no country has felt entitled to take another country's property since Saddam Hussein decided to invade Kuwait (unless you count the ongoing territorial wars in Africa), but this didn't stop Russia from annexing the Crimean peninsula, under that thin sort of logic that Adolf Hitler had used, decades before, to justify the slow German takeover of more and more of Europe, thanks to the number of ethnic Germans that lived in those places. Because the rest of the world didn't want another ghastly conflict like that in the Great War, they kept giving him more and more of what he wanted. Unfortunately, he simply couldn't get enough, which is why the German armies invaded Poland to set off the Second World War in the first place and, later, why Hitler turned his armies against the Soviet Union, even after the two countries had signed a non-aggression pact that would leave Hitler free to run roughshod over all of Western Europe. Under the terms of the Treaty of Versailles, which had brought the Great War to an end, Germany had crippling reparations to pay and severe restrictions on its military forces. Unfortunately, the victorious powers in the Great War did not have the stomach to ensure through verification that Germany was

actually following the dictates of the treaty. It was Germany's intentional failure to follow many of those dictates that made it so easy for Hitler to turn the country back into a military power that could then try to take over the world once again, beginning with Central Europe.

Both Vladimir Putin and Adolf Hitler decided to take what they wanted from the rest of the world, and they knew that what they were doing was a calculated risk. Putin's troops, rolling secretly (or what passes for secretly in the age of round-the-clock satellite surveillance) moved into the eastern part of Ukraine and into Crimea, making annexation of that small part of the country easier as time goes by. Because the international community has so many other atrocities to grab its attention, the outrage that had erupted over the "annexation" of Crimea has largely faded, even though Russia has made no move to back out, and it apparently continues to foment troubles in eastern Ukraine as well.

So is what Russia doing wrong? Is what Adolf Hitler did wrong, from a philosophical point of view? International organizations such as the League of Nations and the United Nations sprang up to help broker peace agreements before another awful war could break out. The problem with this is that the nations of the world have to agree to join the organization and to follow its decisions. One reason why the League of Nations failed, of course, was the absence of the United States, but the United Nations continues to operate, and to issue regulations for a number of different areas of life. As the international organization grows, the sovereign nation that make it up must get nervous about what will happen if the group of nations decides to take a more executive role.

But if all of the nations of the world adopt an instrumental stance when it comes to international law, the result will be outright chaos. One reason why the pressure is so great, in situations when leaders like Putin and Hitler push the sensibilities of the countries around them, that the international community really doesn't have much to use in the way of diplomacy, other than registering objections and possibly instituting some economic sanctions against the offending country. Unless the aggressive country itself is willing to stand back down, there is little that does not involve the use of force that remains available to the international community. And so an instrumental stance gives these bolder nations room to carry out their own nefarious deeds. It is difficult to find sanctions that are more harsh than the existing ones that do not become acts of war. Over time, the frustrations boil over, and conflict spreads. And so the instrumentalist viewpoint works well for the selfish leaders of a selfish nation. However, for countries that are legitimately seeking international cooperation, this practice has to be disturbing.